

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

|                            |   |                  |
|----------------------------|---|------------------|
| SALINAS ACOSTA WEAVER,     | : |                  |
|                            | : |                  |
| Plaintiff,                 | : |                  |
|                            | : |                  |
| v.                         | : | CIVIL ACTION NO. |
|                            | : | 1:18-CV-3031-RWS |
| HENRY W. GRADY             | : |                  |
| MEMORIAL HOSPITAL, et al., | : |                  |
|                            | : |                  |
| Defendants.                | : |                  |

**ORDER**

This action was filed on June 21, 2018 [Doc. No. 1]. Magistrate Judge Janet F. King granted Mr. Weaver’s request to proceed *in forma pauperis* [Doc. No. 2]. The Complaint was then submitted to this Court for a frivolity review.

Pursuant to 28 U.S.C. § 1915(e)(2)(B), “the court shall dismiss the case at any time if the court determines that . . . the action or appeal (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” A claim is frivolous when it appears from the face of the complaint that the factual allegations are “clearly baseless” or that the legal theories are “indisputably meritless.” Neitzke v. Williams, 490 U.S. 319, 327 (1989); Carrol v. Gross, 984

F.2d 393, 393 (11th Cir. 1993).

Federal Rule of Civil Procedure 8(a)(2) requires that a pleading contain a “short and plain statement of the claim showing that the pleader is entitled to relief.” While this pleading standard does not require “detailed factual allegations,” “labels and conclusions” or “a formulaic recitation of the elements of a cause of action will not do.” Ashcroft v. Iqbal, 556 U.S. 662, 129 S. Ct. 1937, 1949 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007)). Because Plaintiffs are proceeding pro se, their “pleadings are held to a less stringent standard than pleadings drafted by attorneys and will, therefore, be liberally construed.” Tannenbaum v. United States, 148 F.3d 1262, 1263 (11th Cir. 1998). “This leniency, however, does not require or allow courts to rewrite an otherwise deficient pleading in order to sustain an action.” Thomas v. Pentagon Fed. Credit Union, 393 F. App’x 635, 637 (11th Cir. 2010).

Here, Plaintiff appears to assert a medical malpractice claim against his doctors and Grady Hospital as a result of his heart surgery at Emory Crawford W. Long Hospital. These does not appear to be diversity of citizenship, and there does not appear to be a federal question involved in this case. As a result, the Court does not have jurisdiction over Plaintiff’s claims. For this reason, the Court

finds that Plaintiff's Complaint does not survive a frivolity review. His claims are DISMISSED, and the Clerk is DIRECTED to close this action.

**SO ORDERED**, this 25th day of July, 2018.

A handwritten signature in black ink, reading "Richard W. Story". The signature is written in a cursive, flowing style with a horizontal line underneath the name.

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**RICHARD W. STORY**  
United States District Judge